

¹ 5 U.S.C. § 8101 *et seq.*

In correspondence dated July 23, 2015, OWCP informed appellant that the evidence of record was insufficient to establish her claim. Appellant was advised as to the medical and factual evidence required to support her claim and afforded 30 days to provide this information.

On July 29, 2015 OWCP received a June 25, 2015 duty status report (Form CA-17) signed by Dr. Thomas Shoaf, a treating Board-certified psychiatrist, finding appellant totally disabled from working at that time. Dr. Shoaf diagnosed acute stress disorder which he attributed to finding a dead woman on her route on June 15, 2015.

In an undated letter, received by OWCP on July 29, 2015, Stan R. Link, postmaster, controverted the claim. He contended that appellant illegally entered her customer's premises due to the open front door. Mr. Link noted that it is against the employing establishment rules to enter a customer's premises without permission from the resident or homeowner. He related that prior to this event appellant had a variety of preexisting mental health issues.

In an August 6, 2015 attending physician's report (Form CA-20), Dr. Shoaf diagnosed post-traumatic stress disorder which he attributed to witnessing the death of an individual on appellant's mail route. Under history of injury, he noted that while appellant was delivering mail she encountered a deceased individual and this individual's dog which resulted in appellant having to call 911. According to Dr. Shoaf, appellant was traumatized as a result of witnessing the death scene and that the bodies had been dead for two days in the summer heat.

Dr. Shoaf also completed a work capacity evaluation for psychiatric/psychological conditions (Form OWCP-5c) dated August 6, 2015 where he opined that appellant was totally disabled from working due to her significant psychiatric symptoms.

By letter dated October 30, 2015, OWCP again informed appellant that the evidence of record was insufficient to support her claim and that the employing establishment controverted her claim. It informed her that the evidence was insufficient to establish that she actually experienced the incident and the evidence was insufficient to establish that she was injured in the performance of duty. OWCP again advised appellant regarding the medical and factual evidence required to support her claim. It also requested that appellant complete an attached questionnaire and afforded her 30 days to provide this information. The questionnaire requested that appellant provide further information clarifying what she was doing at the time of the incident, including the location of the mailbox and proximity of the location to her employment duties. Appellant was also asked to explain how she determined the customer had died and provide details regarding her preexisting emotional conditions. No evidence was submitted.

By decision dated December 11, 2015, OWCP denied appellant's claim as it found she had failed to establish fact of injury. It found that appellant failed to establish that she was injured while performing any employment duty. OWCP noted that appellant failed to complete OWCP's questionnaire or provide any supporting documents as requested regarding performance of duty.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.⁵ First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.⁶ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and her subsequent course of action.⁸ Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast doubt on an employee's statements.⁹ However, an employee's statement regarding the occurrence of an employment incident is of great probative force and will stand unless refuted by strong or persuasive evidence.¹⁰

The employee must establish all of the elements of her claim in order to prevail. She must prove the time, place, and manner of the alleged incident, and a resulting personal injury.¹¹

² *Id.*

³ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁴ S.P., 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

⁶ D.B., 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁷ C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 3.

⁸ See *Betty J. Smith*, 54 ECAB 174 (2002).

⁹ *Linda S. Christian*, 46 ECAB 598 (1995).

¹⁰ *Gregory J. Reser*, 57 ECAB 277 (2005)

¹¹ See C.C., Docket No. 15-1866 (December 11, 2015).

ANALYSIS

Appellant filed a traumatic injury claim alleging mental and emotional trauma due to finding a deceased customer in her home on June 15, 2015. OWCP denied her claim as it found the incident did not occur as alleged and that she was not in the performance of duty at the time of the alleged incident.

OWCP's procedures include letter carriers in the first of four general classes of off-premises workers who, by the nature of their employment, perform service away from the employer's premises.¹² In determining whether this class of employees has sustained an injury in the performance of duty, the factual evidence must be examined to ascertain whether, at the time of injury, the employee was within the period of the employment, at a place where the employee reasonably should be, and while the employee is fulfilling employment duties or engaged in activities incidental thereto.¹³

It is not disputed that, while carrying a mail route on June 15, 2015, appellant discovered a deceased customer in the customer's home. The issue is whether appellant was in the performance of duty at the time.

The only evidence appellant submitted describing the June 15, 2015 incident was her CA-1 form which lacked a sufficient explanation regarding why she entered the customer's residence. The only detail provided was that appellant entered the customer's residence to find a dead body. OWCP informed her by letters dated July 23 and October 30, 2015 that the evidence was insufficient to establish her claim and advised as to the factual and medical evidence required. Appellant also did not respond to OWCP's questionnaire. She failed to provide an adequate description of the June 15, 2015 employment incident which she believed caused or aggravated her condition to establish that an injury occurred at the time, place, and in the manner alleged, and in the performance of duty. Thus, appellant did not meet her burden of proof.¹⁴

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that she sustained an emotional condition in the performance of duty on June 15, 2015, as alleged.

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.5(a)(1) (August 1992). See *Donna K. Schuler*, 38 ECAB 273, 275 (1986).

¹³ See *Donna K. Schuler*, *id.*

¹⁴ Given that appellant did not establish an employment incident in the performance of duty, further consideration of the medical evidence is unnecessary. See *Bonnie A. Contreas*, *supra* note 3.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 11, 2015 is affirmed.

Issued: September 12, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board